



Members:

Rep. Dale Sturtz, Chair  
Rep. Ralph Foley  
Sen. Patricia Miller, Vice Chair  
Sen. Anita Bowser

Lay Members:

John von Arx  
Jim Brewer  
Mary Beth Bonaventura  
Glenn Boyster  
Robert Chamness  
Steve Cradick  
Chris Cunningham  
Sharon Duke  
Lance Hamner  
Craig Hanks  
Joe Hooker  
Iris Kiesling  
David Matsey  
Dave Powell  
Madonna Roach  
Thomas Ryan

## PROBATION SERVICES STUDY COMMITTEE

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### MEETING MINUTES

Meeting Date: October 15, 1998  
Meeting Time: 1:00 P.M.  
Meeting Place: State House, 200 W. Washington St., Room 404  
Meeting City: Indianapolis, Indiana  
Meeting Number: 5

Members Present: Rep. Dale Sturtz, Chair; Rep. Ralph Foley; Sen. Anita Bowser; Sen. Patricia Miller, Vice-Chair; John von Arx; Mary Beth Bonaventura; Jim Brewer; Chris Cunningham; Lance Hamner; Craig Hanks; Joe Hooker; Iris Kiesling; David Matsey; Dave Powell; Madonna Roach; Thomas Ryan.

Members Absent: Glenn Boyster; Robert Chamness; Sharon Duke.

### Meeting Minutes Changes and Approval

Rep. Dale Sturtz, committee chair, began the meeting at 1:13 p.m. and asked for approval of the meeting minutes of September 23. Craig Hanks made the following recommendations for minutes corrections: (**Bolded** terms indicate new language.)

**Page 5, sixth paragraph:** Mr. Ohlemiller responded that legislative changes would allow probationers into community corrections programs **statewide**, but that community corrections has always been conducted as a voluntary program.

**Page 6, second paragraph:** Mr. Ohlemiller replied that DOC has work release centers in ~~Ft. Wayne~~ **South Bend** and Indianapolis, but that most work release is carried on in community corrections, not DOC.

**Page 6, third paragraph:** Mr. Ohlemiller replied that the DOC position is that **sex** offenders cannot be directly committed to community corrections, but can be placed there only as a part of a standard probation sentence.

The minutes of the September 23 meeting were approved as corrected.

## Testimony

**Julia Brita, Allen County Chief Juvenile Probation Officer** described her experience as assistant chief and her recent appointment as chief. She distributed a folder containing ten information pieces on juvenile probation in Allen County.<sup>1</sup>

- ▶ (1) Allen County Superior Court Family Relations Division (describing court and probation department organization) (2) 1997 Field Services Unit Statistics. (3) Staff training outline. (4) Adolescent Sex Offender Program. (5) 1997 Electronic Monitoring/Detention Alternative Programs.

Ms. Brita commented on the following information in the packet.

- ▶ (6) **Probation Education Track.** This new, long-term intensive program targets youth with a history of delinquency and involvement with the court. By court order, juveniles participate in this multilevel program until they receive a diploma, up to four years or until they reach the age of 21.
- ▶ (7) **Breakdown of offenses referred, 1988-1997.** Allen county crime rates follow national offense trends.
- ▶ (8) **Officer equipment list.** Probation officers are armed due to juvenile gang activity, which has included: a shotgun blast directed at one probation office; gun fire directed toward the court house; numerous verbal threats, as well as staff injuries at the courthouse and in the field.
- ▶ (9) **1997 Deer Run Wilderness Area Annual Report.** Deer Run Academy was developed 10 years ago to supplement standard field supervision and is funded by donations, the local home building association and grants.
- ▶ (10) **YMCA status offender court alternatives program** brochure. This program, begun by Judge Stephen Simms, has proven to be a very effective partnership.

Ms. Brita provided information concerning the organization of the department's 41 probation officers. The probation intake team is nearly overwhelmed with juveniles and families, especially concerning drug and alcohol crimes. In 1997, 4,100 juveniles were referred with 5,400 different offenses. The intake office is located at the juvenile detention facility and last year diverted 33 percent of referrals from probation to conditional release. One community service/restitution officer has a caseload of 400 juveniles. Four county probation field units are organized regionally, each supervised by senior officers. Mr. Brita also described the 21 percent re-offense rate of juveniles under supervision in Allen County.

Judge David Matsey asked if Allen County probation retains most of its juvenile referrals. Ms. Brita replied they did. At Judge Mary Beth Bonaventura's request, Ms. Brita provided additional placement information. Annually, about 700 juveniles are assigned either to administrative probation to complete community service (without probation officer supervision) or to informal supervision. About 400 go before a judge, and these receive at least six months formal probation supervision and programming. About 60 annually are assigned to intense surveillance and electronic monitoring. About 70-80 youth are placed in the detention center for monitoring prior to their predispositional hearings. Approximately 80 are sent to the Department of Correction, and last year 66 were put in private placements.

Joe Hooker asked about the duties and roles of juvenile probation officers. Ms. Brita replied that, depending on the division, they do predispositional reports and assessments as well as all the case preparation required by the judge. Judge Bonaventura stressed the uniqueness of juvenile probation in that the probation officer often determines whether a case is filed or not. Another difference is that juvenile probation becomes involved very early in juvenile cases and continues close involvement with every juvenile during their criminal justice processing. Further complicating juvenile probation are its

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<sup>1</sup>Copies of documents are on file with the Legislative Information Center, in Room 230 of the State House. Contact Legislative Information by phone at (317) 232-9856 or by mail at 200 W. Washington St., Rm 230, Indianapolis, IN 46204-2789.

education and family components. Children can additionally be charged as status offenders (offenses that apply only to children, e.g. under-aged drinking) and as being incorrigible. Judge Bonaventura added that success in treating and rehabilitating juveniles is directly related to the services available, and some counties have few services.

Dave Powell described the problem of conflicting local responsibility for youths being classified as either a Child in Need of Services (CHINS) or juvenile offenders. The local Division of Family and Children and the probation department argue over funding responsibility, and he wondered if it would be helpful to legally clarify these terms. Ms. Brita said that clarification might preclude the necessary discussion required in some cases. Judge Bonaventura also expressed concern about compartmentalizing definitions. Also, a child declared as a CHINS cannot be committed to DOC, but when charged by a prosecutor, the child may be eligible for a greater variety of services. Mr. Powell suggested that service and funding flexibility engenders some conflict. Judge Bonaventura suggested that the CHINS term is a suitably applied to all juvenile cases.

**Thomas Frederick, St. Joseph County Director of Court Services** described his 28 years as a probation officer and stated that the job of a juvenile probation officer is to bring hope to and make a difference in the lives of young people. He remarked on the history of juvenile courts and early views of juvenile judges as “wise parents” dealing either with minor neglect/abuse or delinquency cases. In the mid-1960s, due process and proof beyond reasonable doubt became part of juvenile proceedings, necessitating lawyers. However, the Supreme Court denied the need for jury trials as being too lengthy for juveniles. Mr. Frederick defended the need for juvenile courts against a growing opinion that juveniles should be placed in adult court. He stated that most children who come before juvenile court are status offenders and those who are involved in theft and burglary. He said that juveniles should not be subjected to adult sanctions and that courts should also be dealing with parents. Only major offenders, such as juvenile murderers, should be waived to adult court.

Mr. Frederick stated that probation officers are on call 24 hours a day, 7 days a week performing problem solving tasks, from responding to a midnight call from police to help determine a probable cause, to finding an empty detention bed in a neighboring county, or meeting jointly with a child and parents to assist with sanction decisions. Probation officers prepare preliminary inquiries with face-to-face meetings; do background research on family concerns, friends, school concerns; conduct drug screening; and check delinquency, church or athletic activities, etc. They also monitor juvenile offender restitution efforts, community service and fee payments. The probation officer is involved in every facet of a juvenile's processing through the criminal justice system: from court sentencing or weighing the seriousness of probation violations for possible sentence modifications, to determining which private placement is best for the child and parents.

Mr. Frederick stated that his probation office processes about 3,500 cases a year. He described the following outcomes that occur in a year. (1) About 1,500 juveniles are diverted from the system and placed on informal adjustment for three to six months. (2) About 1,000 cases are taken to court (he mentioned that the predispositional reports for these cases take about 200 minutes each to prepare), and that his probation office receives about 880 of these juveniles to supervise. (3) About 100 juveniles are committed to DOC. (4) Between 150-200 are put in residential placement (at an annual county cost of about \$17 million for probation and CHINS). He added that his county has a kindergarten program for CHINS and his probation department works well with juvenile community corrections staff.

Regarding state funding for probation, Mr. Frederick remarked that its benefit to counties must be weighed against loss of local control and distinctiveness of probation departments. Yet, he thought that some base level of financial support for counties would be helpful. He stated that probation should remain under the judiciary, and the Indiana Judicial Conference (IJC) has done a good job on probation standards oversight, certification, training and uniformity.

John von Arx asked if existing law provides enough incentive to make parents responsible for their delinquent children, financially and in other respects. Mr. Frederick replied that the law works well in his community. For example, parents have been jailed for refusing to pay child support when they had the ability to pay. Parents are also required to attend class and pay for it, if they are able. He mentioned that jailing one or two parents has been enough to instill compliance by others.

Rep. Ralph Foley asked what the legislature might contribute regarding state funding, judiciary control, juvenile law or probation services. Mr. Frederick suggested that optional probation officer arrest powers could be considered. Also, probation office difficulties in meeting IJC workload standards might be investigated. Rep. Foley suggested considering a workload standards approach similar to that used for judges. Mr. Frederick responded that the specific expectations of probation need to be addressed—more or a greater variety of services would require more resources.

Rep. Sturtz asked if the juvenile code is adequate. Mr. Frederick answered that some minor adjustments would help, but he did not necessarily see the need to overhaul the juvenile code. He stated that misdemeanor handgun offenses by 16-year-olds should be examined, because “guns and kids are homicides waiting to happen.” Judge Bonaventura stressed that the handgun possession law seems to indicate a need for a comprehensive review of the juvenile code. In Lake County, possessing drugs and a handgun is a subject of felony charges.

**Nicholas Pasyanos, Indiana Association of Counties (IAC)** provided an overview of county finances and their relationship to probation funding.<sup>2</sup> Mr. Pasyanos stated that probation officers are hard working and deserve the salaries they make. However, he drew attention to greater probation officer salary growth rates when compared to those of circuit court clerks. He added that, between 1991 and 1997, the statewide cost of probation has risen 60 percent compared to the 33 percent growth rate for county general funds (probation costs were about \$36 million total in 1997). Mr. Pasyanos stated that the revenue cap on county general fund levies is increasingly pressured by public safety expenditures (including probation) so that expenditures in other areas must decrease. He added that total county funding for the judicial system has grown to \$124.7 million dollars in 1997 while county revenue from courts, at \$53 million, has not kept pace.

Mr. Pasyanos referred to a Governor’s Commission on Taxes finding that an annual state investment of about \$60 million would provide complete state funding for the judicial system. He said that IAC supports this proposition. Lance Hamner asked if consideration had been given to how fines are currently distributed to the criminal justice system. Mr. Pasyanos replied that this was discussed when the state last changed the fine distribution formula. Judge Ryan asked if the fine distribution changes have had sufficient time to register their effects on counties. Mr. Pasyanos replied he did not know. Judge Ryan asked if counties had considered their own means of revenue generation and oversight for court expenses. Mr. Pasyanos replied that if the state were unwilling to provide financing, courts could be provided with their own tax levy, possibly with county council oversight. Judge Ryan asked if the hiring and paying of probation officers might be turned over to counties. Mr. Pasyanos replied that probation officers should remain a part of courts, and county representatives have not discussed this option. Mr. von Arx responded that in Marion County such a suggestion was feasible, though it might be better to give the state that authority. Judge Bonaventura questioned the benefit of one government branch controlling another branch’s staff. Rep. Sturtz stated that judges should control probation departments.

Jim Brewer asked why probation officer salaries were compared with court clerk salaries. Mr. Pasyanos replied that any court official could have been chosen, but clerks seemed a logical choice due to their administration responsibilities and because it is a constitutional office. Mr. Hooker asked if any comparison had been made between probation in counties and police or other court officers, e.g. bailiffs. Mr. Pasyanos could not say. Mr. Hooker asked if the effect of more judges and courts had been taken into account in considering increased probation costs. Mr. Pasyanos replied that this had been pointed out to him. Mr. Hooker also questioned the qualification differences between court clerks and probation officers. Judge Matsey interjected that it is still difficult to hire probation officers at a minimum salary \$3,000 less than that of a school teacher.

Judge Ryan suggested examining potential changes in court fees to generate additional revenue for counties. Mr. Pasyanos reiterated that a special courts tax would be preferable. Mr. Powell asked if an income tax has been considered. Mr. Pasyanos replied that the IAC would like to have that option. Judge Ryan asked if there was information on how much of county general funds can be attributed to the criminal justice system; he thought that about 80% of all Allen County spending was for public safety, i.e.,

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<sup>2</sup>Copies of documents are on file with the Legislative Information Center (see footnote 1).

law enforcement, court services, etc. Mr. Pasyanos said he did not know. Mr. von Arx said it was about 65 percent of all spending in Marion County. Mr. Brewer asked if IAC had any recommendations on a specific funding figure for a state subsidy for probation officers. Mr. Pasyanos said IAC does not have a policy position on this yet. Mr. von Arx suggested that the per diem charged by the state for housing juveniles in DOC could be eliminated, and this funding could then be invested in probation. Mr. Pasyanos replied that this option was worth further consideration. Judge Matsey mentioned that the state funding of 450 additional police in the state will have a ripple effect, causing additional needs among other justice services, including probation offices.

### **Final Report Approval**

Committee members next discussed the content of the draft final report for the committee. Regarding committee recommendations, Rep. Foley suggested that they be described as proposed findings for future consideration and work by the committee. This suggestion and the format of the report were adopted by consent.

There being no further business, Rep. Sturtz thanked the members for their work and ended the meeting at 3:13 p.m.